

House Engrossed

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Fiftieth Legislature  
First Regular Session  
2011

## **HOUSE CONCURRENT MEMORIAL 2003**

### **A CONCURRENT MEMORIAL**

URGING THE PRESIDENT OF THE UNITED STATES AND THE SECRETARY OF THE UNITED STATES DEPARTMENT OF LABOR TO RECOGNIZE THE AUTHORITY OF THE DEPARTMENT OF LABOR TO ESTABLISH A COMMUTER WORKER PILOT PROGRAM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 To the President of the United States of America and the Secretary of the  
2 United States Department of Labor:

3 Your memorialist respectfully represents:

4 Whereas, Arizona has many farmers along the Arizona-Mexico border for  
5 whom a viable H-2A temporary agricultural worker program under the federal  
6 Immigration and Nationality Act is essential to their businesses; and

7 Whereas, many H-2A daily commuters who live in Mexican border areas  
8 commute daily to work for H-2A certified farmers who farm near the  
9 Arizona-Mexico border; and

10 Whereas, H-2A daily commuters who live in Mexican border areas  
11 typically prefer to commute daily from their Mexico residences to the job in  
12 Arizona and return home the same day after work is completed; and

13 Whereas, these H-2A daily commuters decline to use housing that is  
14 approved under the H-2A regulations and that is required to be offered to  
15 them free of charge by the H-2A certified farmers; and

16 Whereas; the United States Department of Labor (DOL) has taken the  
17 position that H-2A certified farmers must contract for or have this housing  
18 available for the H-2A daily commuters before obtaining a labor certification  
19 from DOL, regardless of whether the H-2A daily commuters intend to use the  
20 housing; and

21 Whereas, DOL's interpretation imposes a significant cost on H-2A  
22 certified farmers without affording any benefit to the H-2A daily commuter  
23 beneficiaries; and

24 Whereas, Arizona farmers have put forward a proposal to DOL for a pilot  
25 program in which H-2A daily commuters who commute daily from their Mexico  
26 residences along the border region may waive housing and farmers would not be  
27 required to contract for housing for these daily commuters; and

28 Whereas, the primary issue raised by DOL is whether DOL has the  
29 statutory authority to waive housing in these cases; and

30 Whereas, DOL is given broad discretion to determine the circumstances  
31 under which housing must be provided to H-2A daily commuters, and current  
32 regulations state that H-2A daily commuters are entitled to housing if they  
33 are not reasonably able to return to their residence within the same day, 29  
34 Code of Federal Regulations section 655.122(d)(1).

35 Wherefore your memorialist, the House of Representatives of the State of  
36 Arizona, the Senate concurring, prays:

37 1. That the President of the United States and the Secretary of the  
38 United States Department of Labor recognize the authority of the Department  
39 of Labor to establish a pilot program to address the H-2A commuter housing  
40 issue without any legislative or regulatory changes.

41 2. That the President of the United States and the Secretary of the  
42 United States Department of Labor recognize that requiring farmers to provide  
43 housing to H-2A daily commuters who do not wish to use it imposes a  
44 significant cost on H-2A certified farmers without affording any benefit to  
45 the H-2A daily commuter beneficiaries.

1           3. That the Secretary of State of the State of Arizona transmit copies  
2 of this Memorial to the President of the United States, the Secretary of the  
3 United States Department of Labor and each Member of Congress from the State  
4 of Arizona.

PASSED BY THE HOUSE MARCH 14, 2011.

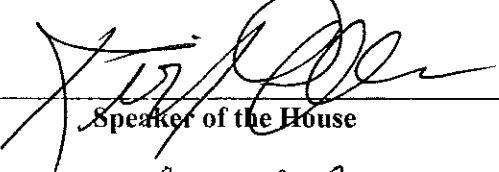
PASSED BY THE SENATE APRIL 19, 2011.

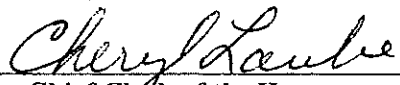
FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 20, 2011.

Passed the House March 14, 20 11

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

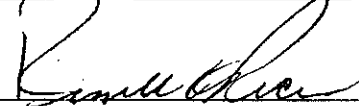
  
Speaker of the House


  
Cheryl Laube  
Chief Clerk of the House

Passed the Senate April 19, 20 11

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

  
President of the Senate

  
Susan Acosta  
~~Assistant~~ Secretary of the Senate

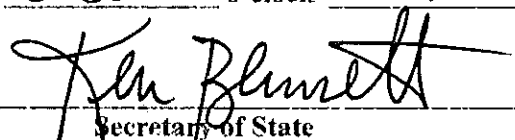
EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Resolution received by the Secretary of State

this 20<sup>th</sup> day of April, 20 11

H.C.M. 2003

at 8:32 o'clock a M.

  
Ken Blumett  
Secretary of State